

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

CHAPTER 13 CASE NO:

**TERRY VAUGH ROTH and
MARCIA A. ROTH**

13-14919-JDW

NOTICE OF TRUSTEE'S MOTION TO DISMISS

Should any party receiving this Notice respond or object to the Motion to Dismiss, such response or objection is required to be filed on or before October 29, 2018, using the CM/ECF system or with the Clerk of this Court at the following address:

Shallanda J. Clay Clerk of Court
U. S. Bankruptcy Court
Northern District of Mississippi
703 Highway 145 North
Aberdeen, MS 39730

and a copy must be served on the undersigned Chapter 13 Trustee. If no responses are filed, the Court may consider said motion immediately after the time has expired. In the event a written response is filed, the Court will notify you of the date, time and place of the hearing thereon.

CERTIFICATE

I, the undersigned Attorney for Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the following attorneys of record and/or parties of interest.

Dated: October 3, 2018

**LOCKE D. BARKLEY
CHAPTER 13 TRUSTEE**

/s/ Melanie T. Vardaman
ATTORNEYS FOR TRUSTEE
W. Jeffrey Collier (MSB 10645)
Melanie T. Vardaman (MSB 100392)
6360 I-55 North, Suite 140
Jackson, Miss. 39211
(601) 355-6661
ssmith@barkley13.com

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MOTION TO DISMISS

COMES NOW the Chapter 13 Trustee, Locke D. Barkley (the "Trustee"), by and through counsel, and files this Motion to Dismiss (the "Motion") in the above referenced case, and in support thereof states as follows:

1. On November 21, 2013, the Debtors' initiated this proceeding with the filing of a Voluntary Chapter 13 Petition. The Debtors' Chapter 13 Plan was confirmed by Order of this Court on March 27, 2014, for a term of 60 months (Dkt. #33) (the "Confirmed Plan")

2. Through the month of September 2018, the Debtors are \$1,943.94 delinquent in plan payments to the Trustee. Payments continue to accrue at the rate of \$648.00 per month thereafter.

3. The sixty (60) month plan term will complete in January 2019. There remains a balance of \$4,490.00 to complete the case and pay the ongoing mortgage claim through January 2019. Based upon the current plan payment, the case will not complete within the term of the Confirmed Plan.

4. The Trustee requests that this case be dismissed or in the alternative requests that the entry of an order requiring that the Debtors immediately cure the payment delinquency and pay all future funds necessary for completion of the Confirmed Plan no later than January 24, 2018, failing either, that this case should be dismissed.

WHEREFORE, PREMISES CONSIDERED, the Trustee prays that upon notice and hearing that this Court enter its order granting the Motion. The Trustee prays for other such general and specific relief as this Court may deem just.

Dated: October 3, 2018

Respectfully submitted,

LOCKE D. BARKLEY
CHAPTER 13 TRUSTEE

BY: /s/ Melanie T. Vardaman
MELANIE T. VARDAMAN (MSB# 100392)
W. Jeffrey Collier (MSB 10645)
Attorneys for the Chapter 13 Trustee
6360 I-55 North, Suite 140
Jackson, Miss. 39211
(601) 355-6661
ssmith@barkley13.com

CERTIFICATE OF SERVICE

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

Dated: October 3, 2018

/s/ Melanie T. Vardaman
MELANIE T. VARDAMAN